

DEPARTMENT OF SOCIAL SERVICES

744 P Street, M.S. 19-31  
Sacramento, CA 95814



November 26, 1984

ALL COUNTY LETTER NO. 84-118

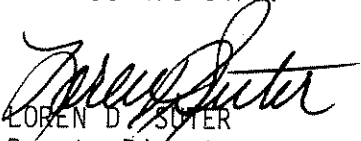
TO: All County Welfare Directors  
All Public and Private Adoption Agencies  
All SDSS Adoption District Offices

SUBJECT: Adoption Application Preference for Specific Foster Parents

AB 2880, Chapter 190, Statutes of 1984, (attached) was authored by Assemblyman Connelly and will become effective on January 1, 1985. This legislation amended Section 366.25 of the Welfare and Institutions Code to require, under certain circumstances, adoption agencies to give "preference" to foster parents' applications, over all other applications, for the adoption of their dependent foster child. AB 2880 states that "preference" means that the application shall be processed and, if satisfactory, the family study shall be completed before the processing of the application of any other person for the adoptive placement of the child. The definition does not require adoptive placement with the foster parent if such a placement would not meet the needs of the child.

The adoption agency shall give processing preference to foster parents' adoption application in cases where all of the following occur: 1) the foster parents have provided care for the dependent child; 2) the court has approved a permanent plan of adoption or the child has been freed for adoption; 3) the dependent child has substantial emotional ties to the foster parents; and 4) the removal of the dependent child would be detrimental to the child's well-being.

If you have any questions, please contact Ms. Hettie Stevenson at (916) 323-0470 or ATSS 473-0470.

  
LOREN D. SUTER  
Deputy Director  
Adult and Family Services Division

Attachment

cc: CWDA

Assembly Bill No. 2880

CHAPTER 190

An act to amend Section 366.25 of the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor June 12, 1984. Filed with  
Secretary of State June 13, 1984.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2880, Connelly. Juvenile court law: adoptions.

Existing law requires the juvenile court to conduct permanency planning hearings with regard to the future of dependent children of the court who have been placed in foster care no later than 12 months after the original placement and periodically, but no less frequently than once each 18 months thereafter, as specified. If the court determines that a minor cannot be returned to the physical custody of his or her parent or guardian and there is not a substantial probability that the minor will be returned within 6 months, the court is required to develop a permanent plan for the minor; if the court finds that the minor is adoptable, it is required to order the initiation of an action to declare the minor permanently free from the custody and control of his or her parents or guardians, except as specified.

This bill would provide that the application of a person who, as a foster parent, has cared for a dependent child for whom the court has approved a permanent plan for adoption, or who has been freed for adoption, for the placement of the child with him or her for adoption, shall be given preference with respect to that child over all other applications for adoptive placement, under specified circumstances.

*The people of the State of California do enact as follows:*

SECTION 1. Section 366.25 of the Welfare and Institutions Code is amended to read:

366.25. (a) In order to provide stable, permanent homes for children, a court shall, if the minor cannot be returned home pursuant to subdivision (e) of Section 366.2, conduct a permanency planning hearing to make a determination regarding the future status of the minor no later than 12 months after the original placement and periodically, but no less frequently than once each 18 months, thereafter during the continuation of foster care. The permanency planning hearing may be combined with the six months' review as provided for in Section 366.

(b) Notice of the proceeding to conduct the review shall be mailed by the probation officer to the same persons as in an original proceeding, to the minor's present custodian, and to the counsel of

record, by certified mail addressed to the last known address of the person to be notified, or shall be personally served on such persons not earlier than 30 days, nor later than 15 days prior to the date the review is to be conducted.

(c) At the hearing the court shall first determine whether the minor should be returned to his or her parent or guardian, pursuant to subdivision (e) of Section 366.2. If the minor is not returned to the custody of his or her parent or guardian the court shall determine whether there is a substantial probability that the minor will be returned to the physical custody of his or her parent or guardian within six months. If the court so determines it shall set another review hearing for not more than six months, which shall be a permanency planning hearing.

(d) If the court determines that the minor cannot be returned to the physical custody of his or her parent or guardian and that there is not a substantial probability that the minor will be returned within six months, the court shall develop a permanent plan for the minor. In order to enable the minor to obtain a permanent home the court shall make the following determinations and orders:

(1) If the court finds that the minor is adoptable, according to the provisions of this article, the court shall order the county counsel, or if there is no county counsel, the district attorney, to initiate an action to declare the minor permanently free from the custody and control of his or her parents or guardians pursuant to Section 232 of the Civil Code unless the court finds that any of the following conditions exist:

(A) The parents or guardians have maintained regular visitation and contact with the minor and the minor would benefit from continuing this relationship.

(B) A minor 12 years of age or older objects to termination of parental rights.

(C) The minor's foster parents are unable to adopt the minor because of exceptional circumstances which do not include an unwillingness to accept legal responsibility for the minor, but are willing and capable of providing the minor with a stable and permanent environment and the removal of the minor from the physical custody of his or her foster parents would be seriously detrimental to the emotional well-being of the minor.

(2) If the court finds that the minor is not adoptable or that one of the conditions in subparagraph (A), (B), or (C) of paragraph (1) apply, but that one or more adults are available and eligible to become legal guardians for the minor, the court shall order the appropriate county department to initiate or facilitate guardianship proceedings, unless the minor's foster parents are unable to become legal guardians of the minor because of exceptional circumstances which do not include an unwillingness to accept legal responsibility for the minor, but are willing and capable of providing the minor with a stable and permanent environment and the removal of the minor from the physical custody of his or her foster parents would

be seriously detrimental to the emotional well-being of the minor.

(3) If the court finds that the minor is not adoptable and that there is not a suitable adult available to become the legal guardian of the child, the court shall order the county welfare department or probation department to facilitate the placement of the minor in a home environment that can reasonably be expected to be stable and permanent. When the minor is in a foster home and the foster parents are willing and capable of providing a stable and permanent environment, the minor shall not be removed from the home if the removal would be seriously detrimental to the emotional well-being of the minor because the minor has substantial psychological ties to the foster parents.

(e) Notwithstanding Section 1510 of the Probate Code, the proceeding for the appointment for a guardian for a minor under this section shall be in the juvenile court. In such a case, the juvenile court shall have the power to appoint a guardian pursuant to the standards and procedures otherwise specified by the Probate Code.

(f) When an adoption of the minor has been granted, the court shall terminate its jurisdiction over the minor.

(g) Periodic reviews conducted by the court subsequent to the initial permanency planning hearing shall determine the appropriateness of the placement, the continuing appropriateness and extent of compliance with the permanent plan for the child, the extent of compliance with the case plan, and adequacy of services provided to the child.

(h) Physical custody of a minor by his or her parents or guardians for insubstantial periods during the 12-month period prior to a permanency planning hearing shall not serve to interrupt the running of such periods.

(i) Permanency planning hearings need not be held if (1) an action under Section 232 of the Civil Code has been commenced or (2) an action to establish a legal guardianship or appoint a legal guardian under the Probate Code has been commenced.

(j) Subsequent reviews shall be conducted every six months and be conducted by an administrative review board except when the court requires a court review or a court review is requested by the minor's parents or guardian or by the minor.

(k) Notwithstanding any other provision of law, the application of any person who, as a foster parent, has cared for a dependent child for whom the court has approved a permanent plan for adoption, or who has been freed for adoption, shall be given preference with respect to that child over all other applications for adoptive placement if the agency making the placement determines that the child has substantial emotional ties to the foster parent and removal from the foster parent would be seriously detrimental to the child's well-being.

As used in this subdivision, "preference" means that the application shall be processed and, if satisfactory, the family study

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shall be completed before the processing of the application of any other person for the adoptive placement of the child.

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